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FILED
San Francisco County Superior Court
MAR 16 2026
CLERK OF THE COURT
BY: _____ Deputy Clerk

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Attorneys for Defendants
KOHL'S INC.
KOHL'S CORPORATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

UNLIMITED CIVIL JURISDICTION

CENTER FOR ADVANCED PUBLIC AWARENESS,

Plaintiff,

v.

KOHL'S, INC.; KOHL'S CORPORATION; and DOES 1-30, inclusive,

Defendants.

Case No.: CGC-23-606674

~~[PROPOSED]~~ **CONSENT JUDGMENT**

(Health & Safety Code § 25249.6 et seq. and Code of Civil Procedure § 664.6)

1. INTRODUCTION

This Consent Judgment is entered into by and between plaintiff Center for Advanced Public Awareness ("CAPA") and defendants Kohl's, Inc. and Kohl's Corporation (together, "Kohl's"), with CAPA and Kohl's each individually referred to as a "Party" and collectively as the "Parties," to resolve the allegations arising out of two, 60-Day Notices of Violation issued on September 13, 2022, pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code § 25249.6 *et seq.* ("Proposition 65").

1.1 The Parties

CAPA is a California-based non-profit organization proceeding in the public interest pursuant to California Health & Safety Code § 25249.7(d) to ensure that chemicals known to the State of California to cause cancer, birth defects, or other reproductive harm are disclosed or eliminated from consumer products sold in California. For purposes of this Consent Judgment only, the Parties do not dispute that Kohl's is a person in the course of doing business for purposes of California Health & Safety Code § 25249.11(b).

1.2 Consumer Product Descriptions

CAPA alleges that Kohl's manufactures, imports, sells, or distributes for sale in California: (a) ceramic planters with exterior decoration containing the heavy metal, Lead, including, but not limited to the *Sonoma Ancient Isle Planter with Stand Style 21SNOCQ17 #205466 UPC 4 00334 09772 9; the Plant Your Own Roots Planter RN#73277; and the Southern Charm Planter UPC 400297564337* (these three specifically identified products, hereinafter referred to as the "Lead Products"); and (b) ceramic planters with vinyl components containing di(2-ethylhexyl) phthalate ("DEHP"), including, but not limited to the *Sonoma Mild West Planter Basket, Navy Blue, #212078, Style 21SNODQ10, UPC 4 00468 96111 8* (this specifically identified product, hereinafter referred to as the "DEHP Products"), without providing the clear and reasonable warnings CAPA alleges are required by

California Health & Safety Code § 25249.5 *et seq.* ("Proposition 65"). Hereinafter, Lead Products and DEHP Products shall be referred to, collectively, as the "Products." Both Lead and DEHP are listed pursuant to Proposition 65 as chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

1.3 Notices of Violation

On September 13, 2022, CAPA served Kohl's, the California Attorney General, and the requisite public enforcement agencies with 60-Day Notice of Violation, AG Number 2022-02160 and 60-Day Notice of Violation, AG Number 2022-01259 (collectively, the "Notices"), alleging Kohl's violated Proposition 65 by failing to warn its customers and consumers in California that the Products can expose users to Lead and DEHP, respectively. No public enforcer has commenced and is diligently prosecuting an action to enforce the allegations set forth in the Notices.

1.4 Complaint

On May 22, 2023, CAPA commenced the instant action ("Complaint"), naming Kohl's as a defendant for the alleged violations of Proposition 65 regarding the Products that are the subject of the Notices.

1.5 No Admission

Kohl's denies the material, factual and legal allegations contained in the Notices and Complaint and maintains all products it sold or distributed for sale, in or into California, including the Products, have been, and are, in compliance with all laws. Nothing in this Consent Judgment shall be construed as, nor shall compliance with this Consent Judgment constitute or be construed as, an admission by Kohl's of any fact, finding, conclusion of law, issue of law, or violation of law. This section shall not, however, diminish or otherwise affect Kohl's' obligations, responsibilities, and duties under this Consent Judgment. Kohl's maintains that it has not knowingly manufactured,

distributed or sold or caused to be manufactured, distributed or sold the Products for sale in California in violation of Proposition 65.

1.6 Jurisdiction

For purposes of this Consent Judgment only, the Parties stipulate: this Court has jurisdiction over Kohl's as to the allegations contained in the Complaint; venue is proper in San Francisco County; and the Court has jurisdiction to enter and enforce the provisions of this Consent Judgment, pursuant to Proposition 65 and Code of Civil Procedure § 664.6.

1.7 Effective Date

The "Effective Date" of this Consent Judgment is ten (10) days after the date on which the Court approves this Consent Judgment and enters Judgment pursuant to its terms.

2. INJUNCTIVE RELIEF: REFORMULATION OR WARNINGS

2.1 Commitment to Reformulate or Warn

Commencing on the Effective Date and continuing thereafter, all Products Kohl's manufactures, imports, sells, ships, or distributes for sale, in or into California, shall meet the Reformulation Standard for Reformulated Products, as defined by Section 2.2 or be accompanied by a clear and reasonable warning pursuant to Sections 2.3 through 2.5.

2.2 Reformulation Standards Defined

(a) Reformulated Lead Products

For purposes of this Consent Judgment, "Reformulated Lead Products" are defined as Products:

(1) containing no more than 0.06% of Lead by weight in any decoration, description, artwork and/or design on the exterior surface when analyzed pursuant to U.S. Environmental Protection Agency ("EPA") testing methodologies 3050B and 6020A or equivalent methodologies utilized by federal or state agencies for the purpose of determining Lead content in a solid substance; and

(2) yielding a test result of no more than 1.0 microgram of Lead on any exterior surface covered with a decoration, description, artwork and/or design when sampled pursuant to the NIOSH method no. 9100 testing protocol and/or analyzed pursuant to EPA 3050B and 6020A.

(b) Reformulated DEHP Products

For purposes of this Consent Judgment, "Reformulated DEHP Products" are defined as Products which, if they contain DEHP, contain such chemical in a maximum concentration of less than 0.1 percent (1,000 parts per million) when analyzed by a laboratory certified or accredited by the State of California, the United States Food and Drug Administration/Environmental Protection Agency, the National Environmental Laboratory Accreditation Program, or a member accreditation body of the International Laboratory Accreditation Cooperation to conduct consumer product testing.

For purposes of compliance with this reformulation standard, testing samples shall be prepared and extracted using Consumer Product Safety Commission ("CPSC") methodology CPSC CH-C1001.09.4 and analyzed using U.S. Environmental Protection Agency methodology 8270D, or other methodologies utilized by federal or state government agencies to determine phthalate content in a solid substance.

2.3 Clear and Reasonable Warnings

For purposes of this Consent Judgment, a "clear and reasonable warning" shall mean warnings in accordance with the specific terms of this Section or pursuant to California Health & Safety Code § 25249.5 *et seq.* and title 27 California Code of Regulations ("Cal. Code Regs.") § 25600 *et seq.*, as may be amended from time to time.

Each warning provided shall be prominently placed with such conspicuousness, when compared with other words, statements, designs, or devices, as to render it likely to be read and understood by an ordinary individual under customary conditions prior to purchase or use. Each

warning shall be provided in a manner such that the consumer or user understands to which *specific* Product the warning applies, to minimize the risk of consumer confusion. For purposes of this Consent Judgment, the following warnings shall be deemed clear and reasonable:

For Products Containing Lead:

(a) Warning:

> ⚠**WARNING** [or] **CA WARNING** [or] **CALIFORNIA WARNING**: This product can expose you to chemicals including Lead, which is known to the State of California to cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

(b) Short-Form Warning: As an alternative to the warning set forth in the preceding subsection (a), Kohl's may, but is not required to, use the following short-form warnings ("Short-Form"), subject to the additional requirements set forth in the following Sections 2.4 and 2.5:

> ⚠**WARNING** [or] **CA WARNING** [or] **CALIFORNIA WARNING:** Risk of cancer and reproductive harm from exposure to Lead. See www.P65Warnings.ca.gov.
>
> Or
>
> ⚠**WARNING** [or] **CA WARNING** [or] **CALIFORNIA WARNING:** Can expose you to Lead, a carcinogen and reproductive toxicant. See www.P65Warnings.ca.gov.

Or, for Products manufactured and labeled prior to January 1, 2028:

> ⚠ **WARNING**: Cancer and Reproductive Harm – www.P65Warnings.ca.gov.

For Products Containing DEHP:

(c) Warning:

> ⚠**WARNING** [or] **CA WARNING** [or] **CALIFORNIA WARNING**: This product can expose you to chemicals including di(2-ethylhexyl) phthalate (DEHP), which is known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

(d) Short-Form Warning: As an alternative to the warning set forth in the preceding subsection (c), Kohl's may, but is not required to, use the following Short-Form, subject to the additional requirements set forth in the following Sections 2.4 and 2.5:

> ⚠**WARNING** [or] **CA WARNING** [or] **CALIFORNIA WARNING:** Risk of cancer and reproductive harm from exposure to di(2-ethylhexyl) phthalate (DEHP). See www.P65Warnings.ca.gov.
>
> Or
>
> ⚠**WARNING** [or] **CA WARNING** [or] **CALIFORNIA WARNING:** Can expose you to di(2-ethylhexy) phthalate (DEHP), a carcinogen and reproductive toxicant. See www.P65Warnings.ca.gov.

Or, for Products manufactured and labeled prior to January 1, 2028:

> ⚠ **WARNING**: Cancer and Reproductive Harm – www.P65Warnings.ca.gov.

(e) Foreign Language Requirement. Where a consumer product sign, label or shelf tag used to provide a warning includes consumer information, as that term is defined in Title 27 California Code of Regulations § 25600.1(c) ("Consumer Information"), in languages other than English, then the warning must also be provided in those languages in addition to English.

2.4 On-Product Warning Requirements

When a warning is required under this Consent Judgment, Kohl's shall affix or cause to be affixed one of the foregoing warnings on the Product Label, its immediate packaging or labeling, or directly on each Product manufactured, imported, distributed, sold or otherwise provided by Kohl's or intended by Kohl's to be provided for sale to consumers in or into California and does not meet the Reformulation Standard. "Product Label" is defined as a display of written, printed or graphic material printed on or affixed to a Product or its immediate container or wrapper. Short form warnings shall appear in at least 6-point type.

Warnings provided pursuant to Section 2.3 must print the words "WARNING:", "CA WARNING:", or "CALIFORNIA WARNING:" in all capital letters and in bold font, followed by a colon. The warning symbol to the left of the warning must be a black exclamation point in a yellow equilateral triangle with a black outline, except, if the sign or label for the Products does not use yellow, then the symbol may be in black and white. The symbol must be in a size no smaller than the height of the words "WARNING:", "CA WARNING:", or "CALIFORNIA WARNING:" The warning may be contained in the same section of the packaging, labeling, or instruction booklet that states other safety warnings, if any, concerning the use of the Products and shall be at least the same size as those other safety warnings.

2.5 Internet Product Warning Requirements

For all Products manufactured, imported, distributed, sold or offered for sale via the internet to customers located in California, or sold in or into California by Kohl's, when a warning is required under this Consent Judgment, Kohl's shall provide warnings for each Product on the Product label, in accordance with Section 2.3, and: (a) a warning on the Product display page; (b) a clearly marked hyperlink using the word "WARNING" or words "CA WARNING" or "CALIFORNIA WARNING" on the product display page that links to the Product warning; or (c) by an otherwise prominently displayed warning provided to the purchaser prior to completing the purchase, such that the consumer does not have to seek out the information being provided. If the warning is provided using the Short-Form content, pursuant to Section 2.3, then the warning provided on the website may use the same content. "Prominently displayed" is defined to mean the consumer does not have to search for it in the general content of the website. Where Kohl's sells, ships, or distributes Products to third-party retailers or e-commerce marketplaces, Kohl's will advise them of the internet warning requirements under this Consent Judgment as a condition of sale of the Products.

2.6 Grace Period for Existing Inventory.

The injunctive requirements of Section 2, including both the reformulation and warning requirements, shall not apply to Products that are already in the stream of commerce as of the Effective Date, which Products are expressly subject to the releases provided in Section 4. Products supplied to third parties by Kohl's prior to the Effective Date shall be deemed exempted from the requirements of this Section 2 and shall be permitted to be sold through as previously manufactured, packaged, and labeled. For the avoidance of doubt, Products in the stream of commerce specifically include, but are not limited to, Products in the process of manufacture. Additionally, the injunctive requirements of Section 2 shall not apply to Products that are distributed or sold outside of the State of California. Nothing in this Consent Judgment is intended to apply to any of Kohl's products other than the Products sold in California, manufactured for sale in California, or distributed for sale in California.

3. MONETARY SETTLEMENT TERMS

3.1. Civil Penalty

Pursuant to Health and Safety Code § 25249.7(b), Kohl's agrees to pay a civil penalty of $4,000 within thirty (30) business days of the Effective Date. The civil penalty payment will be allocated according to Health and Safety Code § 25249.12(c)(1) and (d), with seventy-five percent (75%) of the penalty paid to the California Office of Environmental Health Hazard Assessment ("OEHHA"), and the remaining twenty-five percent (25%) retained by CAPA. Kohl's shall issue its payment in two checks made payable to: (a) "OEHHA" in the amount of $3,000; and (b) "Seven Hills LLP in Trust for Center for Advanced Public Awareness" in the amount of $1,000. CAPA's counsel shall deliver to OEHHA and CAPA their respective portions of the penalty payment. Kohl's shall deliver its civil penalty payments to the address listed in Section 3.3, below.

3.2 Reimbursement of Attorneys' Fees and Costs

CAPA and its counsel offered to resolve the allegations in the Notices and Complaint without reaching terms on the amount of reimbursement of attorneys' fees and costs. Shortly after the Parties finalized the other material settlement terms, they negotiated and reached an accord on the amount of reimbursement to be paid to CAPA's counsel, under general contract principles and the private attorney general doctrine, codified at California Code of Civil Procedure § 1021.5, for all work performed through the mutual execution and reporting of this Consent Judgment to the Office of the California Attorney General and entry of Judgment pursuant its terms, but exclusive of fees and costs on appeal, if any. Within ten (10) business days of the Effective Date, Kohl's shall issue a check in the amount of $26,000 and made payable to "Seven Hills LLP" for all fees and other costs incurred investigating, bringing this matter to Kohl's' attention, litigating, negotiating a settlement in the public interest, obtaining the Court's approval of its terms pursuant to Section 5, and reporting to the California Attorney General. Kohl's shall deliver its payment to the address listed in Section 3.3.

3.3 Payments

All payments payable and due under this Consent Judgment shall be delivered to CAPA's counsel at the following address:

Seven Hills LLP
Attn: Kimberly Gates Johnson
1 Embarcadero Center, Suite 1200
San Francisco, CA 94111

4. CLAIMS COVERED AND RELEASED

4.1 CAPA's Release of Proposition 65 Claims

This Consent Judgment is a full, final, and binding resolution of the claims that were asserted by CAPA arising out of the allegations of violations of Proposition 65 in the Notices and in the Complaint. CAPA, acting on its own behalf, in the public interest, and on behalf of its past and current

agents, representatives, attorneys, successors and assignees ("Releasors") releases Kohl's and each entity to whom Kohl's directly or indirectly distributes or sells the Products including, but not limited to its downstream distributors, wholesalers, marketplace hosts, customers, retailers, franchisee, cooperative members and licensees ("Releasees") based on the failure to provide a clear and reasonable warning under Proposition 65 about alleged exposures to Lead or DEHP in the Products, as specifically defined in Section 1.2 (i.e., Lead Products and DEHP Products) that were manufactured, processed, distributed, sold and/or offered for sale in California before the Effective Date, as set forth in the Notices and Complaint. The Parties further agree that compliance with Section 2 of this Consent Judgment shall be deemed compliance with Proposition 65 with respect to alleged exposures to Lead or DEHP in the Products.

The Parties further understand and agree that this Section 4.1 release shall neither extend (a) to upstream entities that manufactured the Products or any component parts thereof, or any distributors or suppliers who sold the Products or any component parts thereof to Kohl's nor (b) to any Releasees who have been instructed by Kohl's pursuant to Section 2, to provide a warning on Products that are not Reformulated Products and have failed to do so. Nothing in this Section affects CAPA's right to commence or prosecute an action under Proposition 65 against a Releasee that does not involve Kohl's' Products.

4.2 CAPA's Individual Release of Claims

In further consideration of the promises and agreements herein contained, CAPA, as an individual and *not* on behalf of the public, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives all of CAPA's rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims that CAPA may have, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses or expenses, including,

but not exclusively, investigation fees, expert fees, and attorneys' fees arising under Proposition 65 with respect to Lead or DEHP in the Products manufactured, distributed, sold and/or offered for sale by Kohl's and sold in or into California before the Effective Date, against Kohl's and Releasees. The Parties understand and agree that this Section 4.2 release shall not extend upstream to any entities that sold, supplied, or manufactured the Products or any component parts thereof to Kohl's.

4.3 Kohl's' Release of CAPA

Kohl's, on behalf of itself, its past and current officers, agents, shareholders, employees, predecessors, representatives, attorneys, successors, and assignees, hereby waives any and all claims against CAPA and its attorneys and other representatives for any and all actions taken or statements made (or those that could have been taken or made) by CAPA, its attorneys and other representatives, whether in the course of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter with respect to the Products.

5. COURT APPROVAL

Pursuant to California Health and Safety Code § 25249.7(f)(4), CAPA shall file a noticed motion for judicial approval of this Consent Judgment. The Parties agree to mutually employ their reasonable best efforts, and those of their counsel, to support the entry of a judgment pursuant to the terms of this Consent Judgment and to judicial approval of their settlement in a timely manner. For purposes of this section, "best efforts" shall include, at a minimum, supporting the motion for approval, responding to any third-party objection, and appearing at the hearing before the Court, if so requested.

6. SEVERABILITY

If, subsequent to the Court's approval and entry of this Consent Judgment as a judgment, any provision of this Consent Judgment is deemed by a court to be unenforceable, the validity of the remaining provisions shall not be adversely affected.

7. GOVERNING LAW

The terms of this Consent Judgment shall be governed by the laws of the State of California and apply within California. In the event Proposition 65 is repealed, preempted, or is otherwise rendered inapplicable, by reason of law, generally, as to the Products or as to Lead or DEHP, then Kohl's may seek to modify this Consent Judgment pursuant to Section 12. Nothing in this Consent Judgment shall be interpreted to relieve Kohl's from its obligation to comply with any pertinent state or federal law or regulation.

8. NOTICE

Unless specified herein, all correspondence and notice required by this Consent Judgment shall be in writing and sent by: (i) first-class registered or certified mail, return receipt requested; or (ii) a recognized overnight courier to any Party by the other at the following addresses:

For Kohl's:

Matthew Orr, Esq.
Amin Wasserman Gurnani, LLP
515 South Flower Street, 18th Fl.
Los Angeles, CA 90071

For CAPA:

Kimberly Gates Johnson, Esq.
Seven Hills LLP
1 Embarcadero Center, Suite 1200
San Francisco, CA 94111

Any Party may, from time to time, specify in writing to the other Party a change of address to which all notices and other communications shall be sent.

9. COUNTERPARTS AND PDF SIGNATURES

This Consent Judgment may be executed in counterparts and by portable document format (pdf) signature, each of which shall be deemed an original and, all of which, when taken together, shall constitute one and the same document.

10. COMPLIANCE WITH REPORTING REQUIREMENTS

CAPA and its counsel agree to comply with the reporting form requirements referenced in California Health and Safety Code § 25249.7(f).

11. ENTIRE AGREEMENT

This Consent Judgment contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments, or understandings related thereto, if any, are hereby merged herein and therein. There are no warranties, representations, or other agreements between the Parties except as expressly set forth herein. No representations, oral or otherwise, express or implied, other than those specifically referred to in this Consent Judgment have been made by any Party hereto. No other agreements not specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto.

12. MODIFICATION

This Consent Judgment may be modified only by: (i) a written agreement of the Parties and the entry of a modified Consent Judgment by the Court thereon; or (ii) upon a successful motion of any party and the entry of a modified Consent Judgment by the Court thereon. No Party shall seek modification of this Consent Judgment without first providing written notice to the other Party of the basis for the modification sought and meeting and conferring in good faith prior to moving the Court for an order modifying the Consent Judgment. In the event the Parties or either Party seek(s) modification of this Consent Judgment by written agreement or on noticed motion by the Court, the Party or Parties shall provide the OAG with no less than 45 days' notice of their intended revision(s) to the Consent Judgment prior to reporting the revised agreement to the OAG or the date of any hearing by the Court on a motion for such modification.

13. AUTHORIZATION

The undersigned are authorized to execute this Consent Judgment on behalf of their respective Parties and have read, understood, and agreed to all the terms and conditions of this Consent Judgment.

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Docusign Envelope ID: 2BF5061C-0C55-4161-A22D-9E90489AFFD3

AGREED TO:

Date: 11/21/25

By: _____

Linda DeRose-Droubay
EXECUTIVE DIRECTOR
CENTER FOR ADVANCED PUBLIC AWARENESS

AGREED TO:

Date: 11/7/2025

By: DocuSigned by: _____
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KOHL'S, INC. and
KOHL'S CORPORATION

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, pursuant to California Health & Safety Code § 25249.7(f)(4) and California Code of Civil Procedure § 664.6, Judgment is entered in accordance with the terms of the Consent Judgment. By stipulation of the parties, the Court will retain jurisdiction to enforce the settlement under Code of Civil Procedure §664.6.

IT IS SO ORDERED.

Dated: March 14, 2024

JUDGE OF THE SUPERIOR COURT

JOSEPH M. QUINN